

Notice of Allowability

Application No.

10/085,541

Examiner

Michael C. Miggins

Applicant(s)

BLOM ET AL

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 01/02/2004.
2. ☒ The allowed claim(s) is/are 25-27 and 29-50.
3. ☒ The drawings filed on 28 February 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/155,031.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 2/28/02, 1/02/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 03/05/2004
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John Murtaugh on 4/5/04.

The application has been amended as follows:

In the Specification:

After the title and before "BACKGROUND OF THE INVENTION" the following sentence has been inserted - - This application is a division of 09/155,031, now U.S. Patent No. 6,379,766 B1, which is a 371 of PCT/NL97/00139. - -

In the claims:

Claim 50 is canceled.

In claim 25, line 2, after "an ink-only label" and before "comprising an adhesive layer" the phrase - - , wherein the ink-only label defines a label that does not have a paper or plastic backing, - - has been inserted.

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In claim 25, lines 3-4, after "said ink-only label" and before "has a water permeability" the phrase ", when applied to a substrate," has been deleted.

In claim 25, line 4, after "permeability coefficient" and before "which is sufficient" the phrase - - of from about 0.15 to about 2.50 - - has been inserted.

In claim 26, line 2, after "an ink-only label" and before "comprising an adhesive layer" the phrase - - , wherein the ink-only label defines a label that does not have a paper or plastic backing, - - has been inserted.

In claim 26, line 3, after "said ink-only label" and before "has a water" the phrase ", when applied to a substrate," has been deleted.

In claim 26, at the end of line 7, after "acrylic wax" the phrase - - and the label on the container having a pencil hardness between 1N and 7N in its dry state and a pencil hardness less than 0.5N after a soaking time between 1 and 15 minutes in water of 20°C - - has been inserted.

In claim 31, line 4, after "ink-only label," and before "said ink-only label" the phrase - - wherein the ink-only label defines a label that does not have a paper or plastic backing, - - has been inserted.

In claim 31, line 6, after "when applied to" and before ", has a water" the phrase "a substrate" has been deleted and the phrase - - said container - - has been inserted in place thereof.

In claim 31, at the end of line 6, after "permeability coefficient" the phrase - - of from about 0.15 to about 2.50 - - has been inserted.

In claim 31, line 7, after "of the label from" and before "with" the phrase "the substrate" has been deleted and the phrase - - said container - - has been inserted in place thereof.

In claim 31, at the end of line 8, after "destructive treatment of" the phrase "the said substrate" has been deleted and the phrase - - said substrate - - has been inserted in place thereof.

In claim 31, line 10, after "surface of" and before "container" the term "the" has been deleted and the term - - said - - has been inserted in place thereof.

In claim 31, at the end of line 10, after "surface of the container" the phrase - - , the label on the container having a pencil hardness between 1N and 7N in its dry state and a pencil hardness less than 0.5N after a soaking time between 1 and 15 minutes in water of 20°C - - has been inserted.

Reasons for Allowance

The terminal disclaimer of 01/02/2004 is proper and has been entered into the case. The terminal disclaimer overcomes the ODP rejections previously of record.

With regards to claim 25, the reason for allowance is applicant's recited container comprising on at least one surface thereof an ink-only label, wherein the ink-only label defines a label that does not have a paper or plastic backing, the label having a water

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permeability coefficient of from about 0.15 to about 2.50 and the label on the container having a pencil hardness between 1N and 7N in its dry state and a pencil hardness less than 0.5N after a soaking time between 1 and 15 minutes in water of 20°C. The prior art does not teach applicant's recited container.

The closest prior art, Dudzik et al. (U.S. Patent No. 4,444,839), teach a container with a label that is soluble in hot and cold water. However, Duczik et al. do not teach a container comprising on at least one surface thereof an ink-only label, wherein the ink-only label defines a label that does not have a paper or plastic backing, the label having a water permeability coefficient of from about 0.15 to about 2.50 and the label on the container having a pencil hardness between 1N and 7N in its dry state and a pencil hardness less than 0.5N after a soaking time between 1 and 15 minutes in water of 20°C. The recited water permeability coefficient and pencil hardness is said to provide optimal combination of durability and washability (see instant specification, page 6, lines 7-18 and page 26, lines 21-32).

With regards to claim 26, the reason for allowance is applicant's recited container comprising on at least one surface thereof an ink-only label, wherein the ink-only label defines a label that does not have a paper or plastic backing, wherein a cover layer comprises an acrylic wax and the label on the container having a pencil hardness between 1N and 7N in its dry state and a pencil hardness less than 0.5N after a soaking time between 1 and 15 minutes in water of 20°C. The prior art does not teach applicant's recited container.

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The closest prior art, Dudzik et al. (U.S. Patent No. 4,444,839), teach a container with a label that is soluble in hot and cold water. However, Duczic et al. do not teach a container comprising on at least one surface thereof an ink-only label, wherein the ink-only label defines a label that does not have a paper or plastic backing, wherein a cover layer comprises an acrylic wax the label on the container having a pencil hardness between 1N and 7N in its dry state and a pencil hardness less than 0.5N after a soaking time between 1 and 15 minutes in water of 20°C. The acrylic wax cover layer is said to impart improved durability while maintaining washability (see instant specification, page 8, lines 15-31, page 11, lines 3-15). The recited pencil hardness is said to provide optimal combination of durability and washability (see instant specification, page 6, lines 7-18 and page 26, lines 21-32). The examiner has interpreted acrylic wax to be separate and distinct from an acrylic lacquer since a wax is hydrophobic and a lacquer is hydrophilic.

With regards to claim 31, the reason for allowance is applicant's recited process for applying a label to a container, wherein said label is an ink-only label, wherein the ink-only label defines a label that does not have a paper or plastic backing, the label having a water permeability coefficient of from about 0.15 to about 2.50 and the label on the container having a pencil hardness between 1N and 7N in its dry state and a pencil hardness less than 0.5N after a soaking time between 1 and 15 minutes in water of 20°C.

The closest prior art, Dudzik et al. (U.S. Patent No. 4,444,839), teach a container with a label that is soluble in hot and cold water. However, Duczic et al. do not teach a

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container comprising on at least one surface thereof an ink-only label, wherein the ink-only label defines a label that does not have a paper or plastic backing, the label having a water permeability coefficient of from about 0.15 to about 2.50 and the label on the container having a pencil hardness between 1N and 7N in its dry state and a pencil hardness less than 0.5N after a soaking time between 1 and 15 minutes in water of 20°C. The recited water permeability coefficient and pencil hardness is said to provide optimal combination of durability and washability (see instant specification, page 6, lines 7-18 and page 26, lines 21-32).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is (571) 272-1494. The examiner can normally be reached on Monday-Friday; 1:30-10:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pyon Harold can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MCM *mcd*
April 5, 2004

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PRIMARY EXAMINER